

Equitable Services Set-Aside – *IDEA* Entitlement Funding

What is meant by “Equitable Services Set-Aside”?

Under the IDEA 2004, school districts are responsible for setting aside a portion of their *Individuals with Disabilities Education Act* (IDEA) Part B allocation to provide special education instruction and related services to students who are placed in private schools by their parents. These students are referred to as parentally placed private school children (PPPC).

IDEA contains the calculation that must be used by LEAs to determine the amount of IDEA Part B funding that must be expended on special education services to parentally placed private school children. There are two set-aside amounts for parentally placed private school children – one from the school district’s flow-through allocation and one from the preschool allocation.

This calculation applies *only* to students who are placed in private schools by their parents. This set-aside is not for students who are placed in private schools by the LEA or other public agencies.

Equitable Services Set-Aside and the Local Education Agency (LEA)

Under §34 CFR 300.133(b) and (c) of the IDEA regulations, LEAs are responsible for calculating and expending a proportionate share of their flow-through and preschool allocations on parentally placed private school children who are eligible for special education services.

The responsibility for implementing the requirements for parentally placed private school students with disabilities falls upon the LEA where the student’s private school is located.

EXAMPLE:

Student A resides in the Sparta School District.

Student A attends a private school located in the Tomah School District.

Which district is responsible for this parentally placed private school student?

It is the responsibility of the **Tomah School District** to count Student A in their calculation of the amount that must be set-aside and expended on parentally-placed private school children.

Equitable Services Set-Aside Calculation – Flow-through

The calculation for equitable services is completed by the LEA. It is done for both the flow-through and preschool allocations of IDEA. Below is part one of the calculation for the equitable services set-aside for flow-through to determine an average allocation per eligible child.

$$\begin{array}{|c|} \hline \text{LEA's} \\ \text{Flow-through Allocation} \\ \hline \end{array} \div \begin{array}{|c|} \hline \text{Total Number of Eligible} \\ \text{Children ages 3 to 21} \\ \hline \end{array} = \begin{array}{|c|} \hline \text{Average Allocation per} \\ \text{Eligible Child} \\ \hline \end{array}$$

This is the total number of children attending *both* public and private schools located in the LEA who were **ELIGIBLE** for special education (even if they do not receive any services) in the preceding school year. LEAs should use an October 1 count date. This number is not collected by DPI.

Once the average allocation per eligible child is established, the LEA's equitable services set-aside for flow-through can be determined. Below is part two of the calculation.

Average Allocation per Eligible Child	X	# of parentally placed private school children ages 3-21* eligible for special education attending private schools	=	Flow-through amount to be expended for parentally placed private school children with disabilities
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Equitable Services Set-Aside Calculation – Preschool

The difference between the preschool equitable services set-aside calculation and the one completed for flow-through is that only eligible children ages 3 through 5 are counted.

LEA's Preschool Allocation	÷	Total Number of Eligible Children ages 3 to 5	=	Average Allocation per Eligible Child
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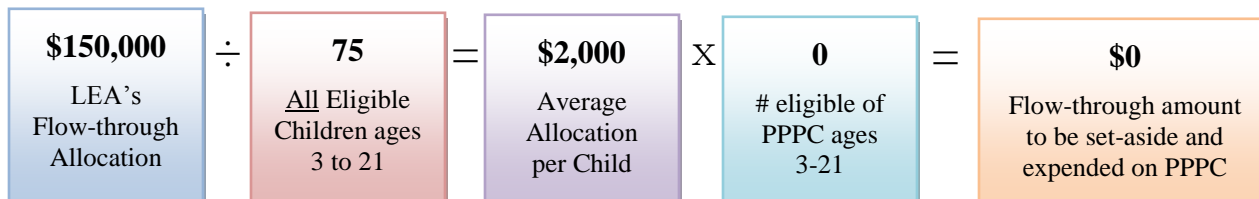
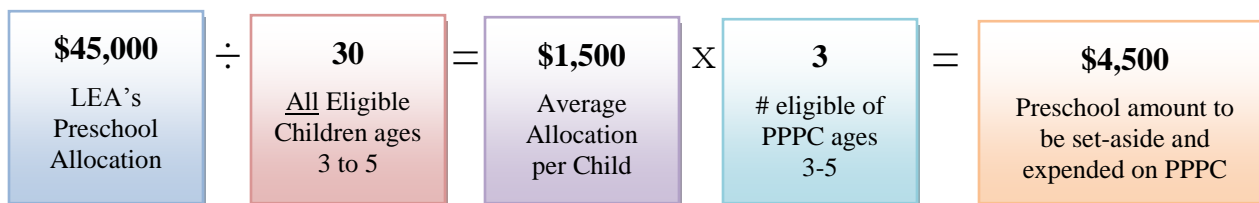
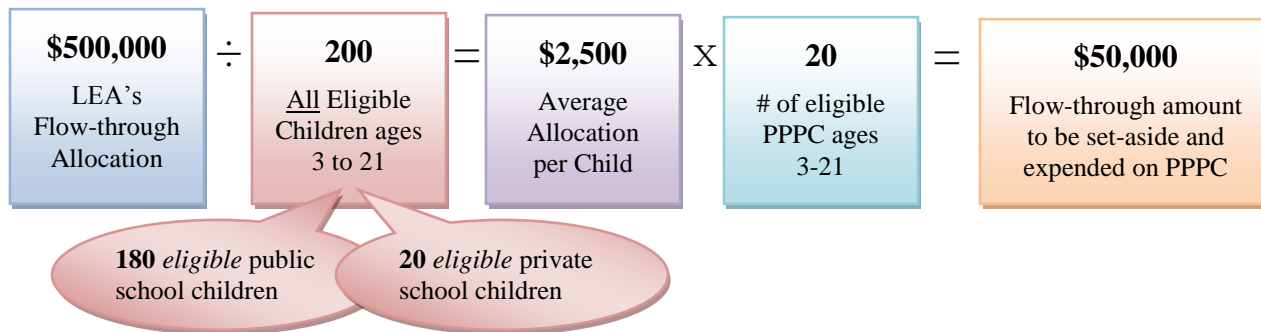
Once the average allocation per eligible child is established, the LEA's equitable services set-aside for preschool can be determined.

Average Allocation per Eligible Child	X	# of parentally placed private school children ages 3-5* eligible for special education attending private schools	=	Preschool amount to be expended for parentally placed private school children with disabilities
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* Wisconsin Statutes section 115.01(2) defines the elementary grades to include four- and five-year-old kindergarten. Therefore, the IDEA requirements for parentally placed private school students with disabilities apply to students enrolled in 4K or 5K programs in private schools. The child's 4K or 5K program must be part of a sequential curriculum that progresses through the grades. The private school institution must meet the definition of a private school in Wisconsin Statutes section 118.165. If a child with a disability ages 3 to 5 is enrolled by their parents in a private school 4K or 5K program, the school district where the private school is located is responsible for child find, including evaluation, and equitable participation. If the school district determines the student will receive services, the district must develop a Services Plan. If the student is not parentally placed in a 4K or 5K private elementary school program, the child continues to have an individual entitlement to free appropriate public education (FAPE) from their school district of residence.

Children ages 3 to 5 are included in both the flow-through (611) calculation and again in the preschool (619) calculation. This means that parentally placed private school children ages 3 to 5 generate equitable services set-aside funds from both the flow-through and the preschool grants.

Equitable Services Set-Aside Calculation – Flow-through and Preschool Examples



Equitable Service Expenditures and Fiscal Timeline

IDEA funds for equitable services may not be paid directly to a private school. The school district must control and administer the funds. However, a school district may use IDEA funds to pay for the services of an employee of a private school to provide equitable services if the employee performs the services outside of his or her regular hours of duty and the employee performs the services under public supervision and control. Private school teachers providing equitable services do not have to meet the highly qualified teacher requirements.

Expenditures for special education and related services, including transportation, may be considered when determining whether the school district has expended the amount that must be set-aside as determined by the equitable service calculation. Other activities, beyond direct services, may also be considered and determined through consultation with the private schools. These activities include:

- Training to private school personnel on special education related topics
- Establishing a resource / assistive technology library (managed by the LEA but accessible to the private schools)

The following costs cannot be used when determining whether or not the requirements of equitable service set-aside has been met:

- Child find activities
- Evaluations
- Administrative costs, such as clerical support or special education director salaries

In addition, IDEA funds may not be used for repairs, minor remodeling, or construction of private school facilities.

If an LEA does not expend the funds set-aside in a fiscal year for equitable services to parentally placed private school children with disabilities, the LEA must obligate the remaining funds for equitable services during a carry over period of one additional year. [34 CFR 300.133(a)(3)]

If an LEA does not expend the funds set-aside within the two year time frame, the LEA is permitted to use unexpended equitable services set-aside funds on other costs allowed under the IDEA. The LEA must document it met all equitable services requirements [300.130-300.144]. The requirements include implementing a thorough child find process, establishing services plans for children receiving services, and providing IDEA-funded equitable services in accordance with service plans. (2010 OSEP Leadership Mega Conference, IDEA Fiscal Updates, Session SA4-101, www.dpi.wi.gov/sped/ppt/osep-2010-pppc.ppt)

Equitable services funds should be expended in a “first in, first out” manner. Unexpended set-aside funds from the previous fiscal year should be expended prior to expending any current fiscal year set-aside funds. The chart below demonstrates this method.

Fiscal Year	Prior Year Carryover	Set-Aside	Total Available	Expenditures	Unexpended Funds	Amount to be spent between July 1 & Sept 30 or be lost
2009	0	10,000	10,000	9,000	1,000	0
2010	1,000	20,000	21,000	9,000	12,000	0
2011	12,000	10,000	22,000	9,000	13,000	3,000
2012	10,000	12,000	22,000	12,000	10,000	0

FY 2009: The LEA is required to set-aside \$10,000 for equitable services from its allocation. There are no funds carried over from the prior year’s equitable service set-aside. During 2009, the LEA expends \$9,000 on equitable services. \$1,000 of the FY 2009 set-aside remains unexpended. In accordance with the IDEA regulations, \$1,000 is carried over to FY 2010.

FY 2010: The LEA is required to set-aside \$20,000 for equitable services from its allocation. The LEA carries over \$1,000 from the FY 2009 set-aside. During FY 2010, the LEA expends \$9,000 on equitable services. The LEA uses the \$1,000 carried over from the FY 2009 set-aside to pay for services before using any FY 2010 funds, ensuring funds remaining from FY 2009 are expended by the end of the carry-over year. The LEA also uses \$8,000 of FY 2010 IDEA funds for equitable services. However, \$12,000 of the FY 2010 set-aside is unexpended. Therefore, \$12,000 must be carried over to fiscal year 2011.

FY 2011: The LEA is required to set-aside \$10,000 for equitable services. The LEA carries over \$12,000 from FY 2010. The LEA should expend the \$12,000 carried over from FY 2010 to pay for services before expending any FY 2011 funds. However, by the end of FY 2011, the LEA expends only \$9,000 – all from the FY 2010 set-aside. It expends no funds from the FY 2011 set-aside. The \$9,000 it expends from FY 2010 set-aside is less than the amount carried over (\$12,000). The LEA must expend the remaining \$3,000 from the FY 2010 set-aside during the period July 1 through September 30, 2011 or lose it. The remaining \$3,000 may be spent on any IDEA allowable expenditures, as long as the LEA has complied with all equitable services requirements. Because the LEA expends no FY 2011 set-aside funds in FY 2011, they must be carried over to FY 2012.

FY 2012: The LEA is required to set aside \$12,000 in flow-through funds. The LEA carries over \$10,000 from the FY 2011 set-aside. During 2012, the LEA expends \$12,000 on equitable services. The LEA expends \$10,000 of FY 2011 funds and \$2,000 of FY 2012 funds for equitable services. The FY

2011 set-aside is now expended in full. However, the FY 2012 set-aside is not fully expended. The LEA must carry over \$10,000 of the required FY 2012 set-aside into fiscal year 2013.

Equitable Services Set-Aside and Significant Disproportionality

The IDEA 2004 requires LEAs that have been identified with significant disproportionality to reserve and expend 15% of flow-through and preschool funds for coordinated early intervening services. LEAs in Wisconsin that have been identified with significant disproportionality are formally notified by the DPI and carry out activities to address the issue. For additional information on disproportionality, please visit <http://dpi.wi.gov/sped/spp-disp.html>.

When determining the amount that must be set-aside and expended on parentally placed private school children, the LEA, even if identified with significant disproportionality, must use the total LEA flow-through or preschool allocation in its equitable service calculations. The amount set-aside for coordinated early intervening services may not be deducted from allocations prior to running the equitable service calculations.

Equitable Services Set-Aside and the IDEA Recovery Funds

During fiscal year 2009-2010, LEAs received additional IDEA funds through the *American Recovery & Reinvestment Act* (ARRA). These funds were in addition to the IDEA entitlement funds normally awarded to LEAs for fiscal year 2009-2010. When computing the amount that must be set-aside and expended on parentally placed private school children in fiscal year 2009-2010, LEAs must base the calculation on the combined amounts of both the IDEA ARRA allocation and the regular IDEA entitlement to determine the average amount per child. This set-aside must be obligated by June 30, 2011.

Additional Resources

Information Update Bulletin 06.03 at <http://dpi.wi.gov/sped/bul06-03.html#q20>

Equitable Services Calculators <http://dpi.wi.gov/sped/lpp-budgets.html#setaside>